

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/19/2020

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HOWARD UNIVERSITY,

Plaintiff,

-v-

LARRY BORDERS and VIRGINIA BORDERS,

Defendants,

and

CENTRALIA MADONNA, a DRAWING,

Defendant-in-rem.  
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20-cv-4716 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Defendants seek an order compelling a non-party to comply with a subpoena based on the representation from Plaintiff's counsel, which also represents the non-party, that Plaintiff would move to quash. Dkt. No. 28. The subpoena was served on October 5, 2020 and commands an appearance in Birmingham, Michigan for a deposition of the non-party and document production by the non-party. Plaintiff has submitted a letter opposing such an order. Dkt. No. 29.

The motion is DENIED. The non-party has not failed to appear. The non-party has the right to move to quash on timely motion in the district where compliance is required in Michigan. Fed. R. Civ. P. 45(d). In the alternative, on consent of the non-party, this Court will accept a timely motion to quash or Plaintiff can elect to have its letter serve as a motion to quash to which an opposition and reply will be permitted. *See* Fed. R. Civ. P. 45(f); *Joffe v. King & Spalding LLP*, 2020 WL 3453452, at \*5 n.6 (S.D.N.Y. June 24, 2020).

SO ORDERED.

Dated: October 19, 2020  
New York, New York



LEWIS J. LIMAN  
United States District Judge